

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SENON MARTINEZ MONTOYA, *on behalf of
himself and other similarly situated in the proposed
FLSA Collective Action,*

Plaintiff,

- against -

HAVANA CENTRAL NY 2, LLC, THE MERRIN
GROUP, LLC, JEREMY MERRIN, SAMUEL
MERRIN, SETH MERRIN, AND ESTER
BRONSTEIN,

Defendants.

Case No. 1:23-cv-00111 (JLR)

**NOTICE OF MOTION TO DISMISS
PLAINTIFF'S COMPLAINT**

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law in Support of Defendants' Motion to Dismiss Plaintiff's Complaint, and the Declaration of Glenn S. Grindlinger, Esq. in Support of Defendants' Motion to Dismiss Plaintiff's Complaint, dated March 13, 2023, and the exhibits annexed thereto, and upon all of the prior papers and proceedings in this case, Defendants Havana Central NY 2, LLC, The Merrin Group, LLC, Jeremy Merrin, Samuel Merrin, Seth Merrin, and Esther Bronstein (collectively, "Defendants"), by and through their attorneys, Fox Rothschild LLP, will move before the Honorable Jennifer L. Rochon, on a date and time to be determined by the Court, for an order pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, for an order dismissing Plaintiff's Complaint, in its entirety, with prejudice, on the grounds that the federal cause of action in the Complaint is time-barred under the Fair Labor Standards Act's ("FLSA") two-year statute of limitations, or in the alternative, for an order dismissing Plaintiff's New York Labor Law Section 195 causes of action because Plaintiff lacks standing and such claims fail as a matter of law and dismissing all causes of action against

The Merrin Group, LLC, Jeremy Merrin, Samuel Merrin, Seth Merrin, and Esther Bronstein because they were not Plaintiff's employer. Defendants further seek an order granting Defendants costs, fees, and disbursements together with such other and further relief as the Court deems just, proper, and equitable.

Dated: New York, New York
March 13, 2023

Respectfully submitted,

FOX ROTHSCHILD LLP

/s/ Glenn S. Grindlinger
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Attorneys for Defendants